



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

Outgoing
C0150018
#3267
OK

June 18, 2009

Kenneth S. Fleck, Manager of Geology & Environmental Affairs
Energy West Mining Company
P.O. Box 310
Huntington, Utah 84528

Subject: Completion of Midterm Permit Review, PacifiCorp, Deer Creek Mine, C/015/0018,
Task ID #3267

Dear Mr. Fleck:

In a letter dated August 11, 2008, the Division informed you that we were initiating the midterm review of the Deer Creek Mine permit. The Division has completed the Midterm Review. Potential deficiencies that were noted during the review process have been resolved.

1. A review of the mine plan to ensure that the requirements of all permit conditions, division orders, notice of violation abatement plans, and Permittee initiated plan changes are appropriately incorporated into the mine plan document.

A side-by-side update of the Division's and Permittee's MRPs was conducted in January 2008. At that time, permit conditions, division orders, notice of violation abatement plans, and Permittee initiated plan changes that were not already in the MRP were appropriately incorporated.

2. A review to ensure that the mine plan has been updated to reflect changes in the Utah Coal Regulatory Program that have occurred subsequent to permit approval (example: compliance with U.S. Fish and Wildlife Department - Colorado River Endangered Fish Recovery Program).

In conjunction with the Colorado River Endangered Fish Recovery Program, the Division sent a list of midterm deficiencies to the Permittee on March 16, 2009. However, during this midterm review period, the Division discussed the terms of the Endangered Fish Recovery Program with the US Fish and Wildlife Service (USFWS) and agencies regulating oil, gas, and coal production in adjacent states. Subsequently, the Division came to the decision that once a mine has completed a Section 7 consultation with the USFWS regarding the mine's water consumption, the consultation will only be reopened if the mine changes water consumption



10% or greater. As Deer Creek has not had a change in water consumption, for the purpose of the midterm review of the Deer Creek Mine, the Division finds that the deficiencies do not need to be addressed at this time; they may need to be addressed in the future if a Programmatic Agreement is completed between DOGM and USFWS.

3. A review of the applicable portions of the permit to ensure that the mine plan contains commitments for application of the best technology currently available (BTCA) to prevent additional contributions of suspended solids to stream flows outside of the permit area.

The MRP contains commitments to use sedimentation ponds, sediment retention boxes, diversions, mine-water discharge treatment, and ASCAs to prevent additional contributions of suspended solids to stream flows outside of the permit area.

4. An AVS check to insure that Ownership and Control Information is current and correct, verify compliance status of unabated enforcement actions, determine status of any outstanding finalized penalties, and verify that there are no demonstrated patterns of violation.

The Division has received information from the Permittee that, in the Division's judgment, satisfactorily addresses the AVS issue regarding the Permittee's connection with unpaid AML fees in Pennsylvania, which date from 1983. The AVS connection is through Mr. Paul J. Leighton, vice president of MidAmerican Energy Holdings Company, a subsidiary of Berkshire Hathaway, which is the also owner of PacifiCorp, the Permittee. Mr. Leighton was at one time employed by Coal Junction Coal Co. and Alumbaugh Coal Corp., the two entities that owe the AML fees in Pennsylvania; however, Mr. Leighton was not associated with those two companies when they failed to pay the fees. The Division is submitting the information to OSM with a recommendation that this connection between the Permittee and these unpaid fees be cleared in the AVS.

5. A review of the bond to ensure that it is in order and that the cost estimate is accurate and is escalated to the appropriate current-year dollars.

The Permittee has an adequate amount of bond in place to reclaim the disturbed areas associated with the Deer Creek Mine, in accordance with the requirements of R645-301-812.700.

6. A review of the mining and reclamation plan for compliance with operator commitments related to variances or special permit conditions (including but not limited to subsidence control/monitoring plans and reporting requirements, variances to AOC, experimental practices, electronic database water monitoring reporting, raptor surveys, revegetation test plots, etc.).

A commitment to conduct substitute topsoil sampling once within each permit term is found in Section R645-301-233 of the MRP (Vol. 2, Part 4). The results of soil sampling must be provided to the Division prior to permit renewal in January 2012. This commitment has been

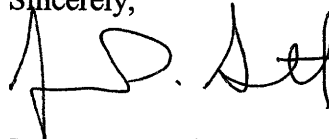
added to the annual report review form as a result of this mid-term review.

7. The Division may conduct a technical site visit, in conjunction with the assigned compliance inspector, to document the status and effectiveness of operational, reclamation, and contemporaneous reclamation practices.

The Division did not conduct a technical site visit in conjunction with this midterm review.

The Division is hereby completing the Midterm Review. The Division is not requiring any changes to the Permit or MRP as a result of this midterm review. If you have any questions regarding the Midterm Review process please call me at (801) 538-5262 or Joe Helfrich at (801) 528-5290.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.D. Smith', written over a horizontal line.

James D. Smith
Permit Supervisor

JDS/sqs
cc: Price Field Office
O:\015018.DER\FINAL\WG3267\Apr.doc